

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
JANUARY 11, 2017**

**CALL TO  
ORDER  
6:01 pm**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at the South Campus Building, 40 11<sup>th</sup> Street W, Ste. 200, Kalispell, Montana. Board members present were, Rita Hall, Sandra Nogal, Dean Sirucek, Ron Schlegel, Jim Heim, Jeff Larsen, and Greg Stevens. Kevin Lake and Mike Horn had an excused absence. Mark Mussman, Kari Nielsen, and Erik Mack represented the Flathead County Planning & Zoning Office.

There were approximately 45 people in the audience.

**APPROVAL OF  
MEETING  
MINUTES  
6:01 pm**

Schlegel made a motion, seconded by Sirucek to approve the December 14, 2016 meeting minutes.

**BOARD  
DISCUSSION  
6:01 pm**

None

**ASK THE  
QUESTION  
6:01 PM**

The question was asked.

**ROLL CALL TO  
APPROVE  
MEETING  
MINUTES  
6:01 pm**

On a roll call vote the motion passed unanimously.

**ELECTION OF  
OFFICERS  
6:03 pm**

Stevens made a motion seconded by Schlegel to nominate Larsen for Chairman of the Board.

On a roll call vote motion passed unanimously.

Stevens nominated Heim.

Heim nominated Stevens.

Stevens stated that Heim conducted himself in a more professional manner and had been on the Board for a longer

period of time making Heim more qualified for the position.

The Board voted on Heim.

Motioned passed by quorum.

**PUBLIC  
COMMENT  
(not related to  
agenda items)  
6:04 pm**

Mayre Flowers-Citizens for a better Flathead-35 4<sup>th</sup> Street W., Kalispell stated that the County website for Planning and Zoning was an excellent resource for the public. She stated there had been technical difficulties in the past week accessing files on the website and asked that the hearings be postponed until the public had more time to review the materials.

**MICHAEL &  
SHARON TIKKA  
(FZC-16-16)  
6:06 pm**

A zone change request by Michael L. & Sharon A. Tikka in the Westside Zoning District. The proposal would change the zoning on a parcel containing approximately 10.196 acres from AG-80/WVO (*Agricultural/West Valley Overlay*) to R-1 (*Suburban Residential*). The subject property is located at 294 Stillwater Road.

**STAFF REPORT  
6:08 pm**

Mack reviewed Staff Report FZC-16-16 for the Board.

**BOARD  
QUESTIONS  
6:11 pm**

None

**APPLICANT  
PRESENTATION  
6:12 pm**

Sharon Tikka-294 Stillwater Road, Kalispell stated she was the applicant. She stated that she had no plans for the property at this time but were looking at their options for the future.

**BOARD  
QUESTIONS  
6:12 pm**

None

**AGENCY  
COMMENTS  
6:12 pm**

None

**PUBLIC  
COMMENT  
6:12 pm**

None

**APPLICANT  
REBUTTAL  
6:13 pm**

None

**BOARD  
QUESTIONS  
6:13 pm**

None

**STAFF  
REBUTTAL  
6:13 pm**

None

**BOARD  
DISCUSSION  
6:13 pm**

None

**MAIN MOTION  
TO ADOPT  
F.O.F.  
(FZC-16-16)  
6:13 pm**

Stevens made a motion seconded by Sirucek to adopt Staff Report FZC-16-16 as Findings-of-Fact.

**BOARD  
DISCUSSTION  
6:13 pm**

None

**ASK THE  
QUESTION  
6:13 pm**

Sirucek asked the question.

**ROLL CALL TO  
ADOPT F.O.F.  
6:14 pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
TO  
RECOMMEND  
APPROVAL  
(FZC-16-16)  
6:14 pm**

Stevens made a motion seconded by Sirucek to adopt Staff Report FZC-16-16 and recommend approval to the Board of County Commissioners.

**BOARD  
DISCUSSION  
6:14 pm**

None

**ASK THE  
QUESTION  
6:14 pm**

Sirucek asked the question.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FZC-16-16)  
6:14 pm**

On a roll call vote the motion passed unanimously.

**THORNTON  
MOTORSPORTS  
LLC  
(FPPUD-16-01)  
6:15 pm**

A request from APEC Engineering, Inc., on behalf of Thornton Motorsports, LLC for Preliminary Planned Unit Development (PUD) and Preliminary Plat approval of Montana Raceway Subdivision, a 57-lot residential subdivision located at 3790 Highway 93 North near Kalispell. Containing approximately 40.6 acres, the subject property is located within the Highway 93 North zoning district and is currently zoned *AG-40 Agricultural*. The applicant has also requested a zone change from AG-40 to R-1 with an overlay PUD to increase density. The lots would be served by a public water supply and individual wastewater treatment systems with common drain fields.

**STAFF REPORT  
6:15 pm**

Nielsen reviewed Staff Report FPPUD-16-01 for the Board.

**BOARD  
QUESTIONS  
6:20 pm**

Hall stated she had concerns with the water treatment. She felt a common drain field would be insufficient for the size of the development and thought that an onsite treatment facility would be warranted.

Nielsen stated that Environmental Health did not voice any concerns with that issue.

Stevens stated that neither the Board nor the planning staff had the expertise to answer those types of questions and deferred to DEQ and Environmental Health for their recommendation on those issues.

**APPLICANT  
PRESENTATION  
6:22 pm**

Mark Leitchi-APEC Engineering-75 Somers Road, Somers stated he represented the applicant.

He stated the applicant was not proposing a separate sewage treatment plant but were planning a septic system for the 57 lots. The 57 lots would have a collection system; they would go to a septic treatment system and would go to DEQ for approval. He

explained that process.

Liechti addressed concerns by Fish and Wildlife that it was in the whitetail winter range stating that the property is fenced therefore had no access for animals.

Liechti stated the property had a 60 foot emergency access easement on the north east corner of the property that had been negotiated with Majestic Valley arena. However, the applicant would prefer to keep one access only.

He spoke to the fire department who would like to see a fire suppression system on the property and the applicant had no problem with doing that.

**BOARD  
QUESTIONS  
6:28pm**

Larsen asked if the applicant would have a fire suppression system stating the subdivision regulations state "Unless the subdivider installs an adequate water supply for fire suppression, the Commission shall require more than one access when the following conditions are present," and Larsen felt it would be up to the Commission as to whether a secondary access would be required.

Liechti stated the subdivision would have a fire suppression system.

Larsen asked about the traffic study.

Liechti stated he thought the level of service would decrease from the current use.

Larsen asked about open space and park land.

The Board and applicant discussed open space and park land at length.

Sirucek asked about perk test.

Leitchi stated it was not required.

**AGENCY  
COMMENTS  
6:39 pm**

None

**PUBLIC  
COMMENT  
6:40 pm**

Jay Wolf-739 Prairie View Road, Kalispell-stated he was the neighbor. He talked about water drainage currently and felt that the septic system as planned would not create any problems.

Scott Hedstrom-695 Prairie View Road, Kalispell stated he did not think this was a good fit for the neighborhood. He was concerned about access, water runoff and septic.

Karen Reeves-230 Missy Ln, Whitefish-was concerned about the number of lots, septic, access, and water quality.

**APPLICANT  
REBUTTAL  
6:45 pm**

None

**BOARD  
QUESTIONS  
6:45 pm**

Stevens asked about storm water runoff.

Leichti stated they would hold it onsite.

**STAFF  
REBUTTAL  
6:45 pm**

None

**BOARD  
QUESTIONS  
6:47pm**

Larsen asked about the findings for open space.

Nielsen explained.

**MAIN MOTION  
TO ADOPT  
F.O.F.  
(FPPUD-16-01)  
6:51 pm**

Heim made a motion seconded by Sirucek to adopt Staff Report FPPUD-16-01 as Finding of Fact.

**BOARD  
DISCUSSION  
6:32 pm**

None

**ASK THE  
QUESTION  
6:33 pm**

Sirucek asked the question.

**ROLL CALL TO  
ADOPT F.O.F.  
(FZC-16-13)  
6:52pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
TO  
RECOMMEND  
APPROVAL  
(FPPUD-16-01)  
6:52 pm**

Heim made a motion seconded by Schlegel to adopt Staff Report FPPUD-16-01 and recommend approval to the Board of County Commissioners.

**BOARD  
DISCUSSION  
6:53 pm**

The Board discussed problems with access, storm water runoff, septic, and open space or parkland at length.

Heim stated he thought the septic system was ok. He thought the access issues could be handled by requiring a second access.

Schlegel stated that the septic system was out of the Boards hands as it would be handled by Environmental Health during their review.

Stevens stated the secondary access would be up to the Commissioner's. He felt this subdivision would not need a secondary access as it was not surrounded by trees.

Nogal stated she was uncomfortable with the density, the access and egress, and the way the septic was designed. She was also concerned with storm water runoff.

Larsen stated he had a problem with the design of the subdivision. He would have liked to see a trail system around the subdivision for the residents. Larsen felt the PUD did not offer anything for the homeowners. He felt a trail system or an access to the open space or more parkland was warranted. He talked about the Riverdale LUAC comments, stating these comments needed to be addressed.

Stevens felt that the public water supply and new public wastewater collection and treatment system was a benefit to the subdivision.

Larsen stated the PUD needed a trade-off for the density, like a play area for the kids or a walking trail. Schlegel agreed.

Leichti stated he would like to table the application.

**MOTION TO  
WITHDRAW**

Heim withdrew his motion.

**7:10 pm**

**MOTION TO  
TABLE TO A  
DATE  
UNCERTAIN  
7:13 pm**

Sirucek made a motion seconded by Hall to table FPPUD-16-01 to a date uncertain.

**ROLL CALL TO  
TABLE  
7:13 pm**

On a roll call vote the motion passed unanimously.

**MONTANA  
RACEWAY  
SUBDIVISION  
(FPP-16-07)  
7:13 pm**

A request from APEC Engineering, Inc., on behalf of Thornton Motorsports, LLC for Preliminary Planned Unit Development (PUD) and Preliminary Plat approval of Montana Raceway Subdivision, a 57-lot residential subdivision located at 3790 Highway 93 North near Kalispell. Containing approximately 40.6 acres, the subject property is located within the Highway 93 North zoning district and is currently zoned *AG-40 Agricultural*. The applicant has also requested a zone change from AG-40 to R-1 with an overlay PUD to increase density. The lots would be served by a public water supply and individual wastewater treatment systems with common drain fields.

**BOARD  
QUESTIONS  
7:15 pm**

Schlegel made a motion seconded by Sirucek to table the application to a date uncertain.

**ROLL CALL TO  
TABLE  
7:15 pm**

On a roll call vote the motion passed unanimously.

**SWO SOUTH  
WHITFISH  
OVERLAY  
(FZTA-16-03)  
7:28 pm**

A publicly initiated text amendment to the *Flathead County Zoning Regulations* proposed by the Flathead County Planning Board. The proposed text amendment will create a new overlay use district entitled *SWO Highway 93 South Whitefish Overlay*. And add the new overlay use district to the *Flathead County Zoning Regulations* as section 3.51. The general character of the proposed *SWO Highway 93 South Whitefish Overlay* is to institute increased design standards for new development within the Highway 93 corridor south of the City of Whitefish. The text amendment proposes to add additional landscaping and buffering standards, to add architectural standards, and add standards to reduce the visual impacts of signs and lighting.



**STAFF REPORT**  
**7:29 pm**

Mussman reviewed the Staff Report FZTA-16-03 for the Board.

**BOARD**  
**QUESTIONS**  
**7:31 pm**

Heim asked if the text amendment set the boundaries of the corridor district.

Mussman stated the text amendment did not but the zone change would.

Heim asked if the text amendment could be approved and the zone change not approved.

Mussman stated yes, it would be a floating zone until it was placed on a property.

**SWO SOUTH**  
**WHITFISH**  
**OVERLAY**  
**(FZC-16-15)**  
**7:35 pm**

A publicly initiated zone change request by the Flathead County Planning Board in the Rural Whitefish and Blanchard Lake zoning districts. The proposal would change approximately 51.8 acres from SAG-5 (Suburban Agricultural) to B-2A (Secondary Business), approximately 4.4 acres from R-2.5 (Rural Residential) to B-2A (Secondary Business), approximately 218.5 acres from SAG-5 (Suburban Agricultural) to BSD (Business Service District), and approximately 148 acres from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural). In addition, this entire rezoned area would also be placed in the SWO (Highway 93 South Whitefish Overlay district). The property is located adjacent to the southern boundary of the City of Whitefish extending approximately 1.5 miles south and approximately ¼ mile east and ¼ mile west of the Highway 93 right-of-way in Sections 12 and 13, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

**STAFF REPORT**  
**7:36 pm**

Mussman reviewed the Staff Report FZC-16-15 for the Board.

Hall asked how many of the property owners in this district had made comments.

Mussman stated he did not know.

Mussman stated that this zone change dealt with about 100 specific pieces of property. The property owners in this area have gone back and forth between the city of Whitefish and Flathead

County, depending on who had land use jurisdiction, asking for some relief and to do something with the zoning that for years no longer reflected the area as it did when it was first zoned in 1993. When the city of Whitefish had jurisdiction they were going to do a corridor study, then the recession hit and they did not have funding for that. Then there was the donut issue that was finally settled and the planning board put this issue on their strategic work plan for 2 or 3 years, so this is not new. The property owners representative submitted a draft almost a year and half ago and Mussman met with him and determined that it was not sufficient to address at that time. It went back to the drawing board with numerous meetings and the work that has been done was then resubmitted as a draft that planning staff determined could now be a publicly initiated request.

Mussman stated that the planning office did receive numerous public comments after the packets were mailed and he handed them out.

Mussman stated that the Board had asked him to identify what was there by conditional use and legal nonconforming. Mussman went over this information.

**BOARD  
QUESTIONS  
7:48 pm**

Sirucek asked about the shared driveway, frontage road, and backage road criteria as stated in the staff report.

Mussman went over this information.

Schlegel asked how many businesses were in that area.

Mussman stated approximately 15.

**APPLICANT  
PRESENTATION  
7:50 pm**

Dave DeGrandpre-Land Solutions-36708 Leon Road, Charlo, MT-gave the history of this project. He went over the current proposal and how it was achieved.

Degradpre asked that he be able to make several requests regarding the staff report:

On page 26, second to last paragraph change-"it appears the proposed expansion of the B-2A zone and the addition of BSD zoning may not be compatible to the urban growth adjacent to this request." He asked that the Planning Board strike this or change it to say the proposed expansion is compatible to the urban growth adjacent to this request.

Then Finding 14 change to the B-2A and BSD amended appear to be compatible...

On page 31, second to last paragraph strike this whole paragraph. DeGrandpre stated that he went straight to the city of Whitefish for the zoning in this corridor.

Then Finding 23 would also need to be amended to read; "The B-2A and BSD amendments are substantially compatible with the city of Whitefish zoning.

**BOARD  
QUESTIONS  
8:07 pm**

Sirucek stated the plan needed to address what a frontage road, or back side road would look like and the plan also needed to address traffic safety. He was also concerned about not having all the landowner's comments on the plan.

DeGrandpre stated he had contacted all of the landowners, first by letter, and then by postcard, and ask that they contact him, by email, or at the meetings, or by phone and not everyone contacted him.

With regard to transportation this was a tricky issue by far. He explained that he wanted the frontage road and backage roads and highway accesses to be guidelines for future development of the associated properties so as to address traffic concerns along the corridor.

Sirucek wanted the verbiage regarding frontage and backage roads to be more precise.

**AGENCY  
COMMENTS  
8:17 pm**

Dave Taylor-City of Whitefish Planning Director-was concerned with the lack of public process and the stakeholder involvement in the plan. He stated the city was going to move forward with their corridor plan for this area. The City of Whitefish is also concerned with the commercial aspect of the plan as this area is the gateway to Whitefish. He wanted more of a traffic study done. The city was also concerned with the change in zoning for this area which would increase density.

Taylor stated a corridor plan was definitely needed in this area; however, more study was needed before a plan was adopted.

Sirucek asked what Taylor thought about the width of the proposed zoning.

Taylor stated it was too wide.

**PUBLIC  
COMMENT  
8:32 pm**

Sarah Nargi-5850 Highway 93 South-Whitefish-stated the landowners had been requesting relief for the past 10 years. She has personally gone door to door to talk with the landowners in this area. Nargi stated she understood compromises needed to be made but something needed to happen in this area. She talked about the number of meetings the property owners had regarding this plan over the past 10 years. She was in favor of this plan.

Rebecca Norton-530 Scott Ave-Whitefish-was against this plan as proposed. She wanted a corridor plan study done.

Andrew Eckstrom-105 Emerald Dr.-Whitefish stated he was representing his subdivision of about 26 homes. He stated they were not against the rezone but wanted some assurances as to what that would look like.

Mike Bode-915 Columbia Ave, Whitefish-stated he owned the property at 5930 Highway 93. He was for the proposal. He stated currently he is limited on what he can do with this property.

Ole Netteberg-228 Valley Rose Lane-Kalispell stated he owns property at 5491 Highway 93 South. He spoke in favor of this project.

Steven Gordon-219 Dakota Ave-Whitefish-stated he owned property at 5930 Highway 93 South-the Bridge Medical Center and was in favor of this project.

Brad Brittson-420 East Texas-Whitefish owns Head Waters Church at 5600 Highway 93 South-spoke in favor of this proposal.

Mike Casey-195 Blanchard Lake Road-Whitefish stated he had the same concerns as the City of Whitefish. He raised his family on his land and did not want a rodeo going in next door.

Bill Montgomery stated he owned 2 pieces of property, one at 5725 Highway 93 South and the other 5729 Highway 93 South. He was generally in favor of the proposal. He wanted something done.

Karen Reeves-230 Missy Lane-Whitefish wanted the County to be visionaries and do this plan right.

Bill Mulcahy-175 Sapphire Court-Emerald Heights-Whitefish stated he had never seen a copy of the plan and would like to see it.

Keith Bogart-5674 Highway 93 South, Whitefish-stated he was in favor of this plan. He stated he has had 5 buyers over the years and all have backed out due to the uncertainty of what can or cannot be done. He did not want this drawn out for another 2 years.

Travis Tipton-5944 Highway 93 South-Whitefish was in favor of the proposal.

Bud Iverson-222 Iverson Lane-Whitefish-did not want the proposal boundary lines to go so far back. He was also concerned about safety.

Don Spivey-117 Park Knoll Lane- Whitefish-thought a plan for the highway corridor was needed, but wanted more study done for the plan.

Larry Lautaret-170 East Blanchard Lake Road-Whitefish-thinks the proposal goes too deep. He stated the current zoning is not working and the people living and working in this area needed relief without waiting another 10 years.

Mayre Flowers-Citizens for a Better Flathead-35 4<sup>th</sup> Street West-Kalispell-stated she did not think the plan before the Board was the solution. Flowers handed out comments on both the text amendment and the map amendment (see attached) stating the Citizens for a Better Flathead were against both proposals as written.

Linda Iverson-222 Iverson Lane-Whitefish-stated her biggest concern was the traffic; she was also concerned with a comment that was made stating that once a property was zoned commercial it was hard to go back to residential. She wanted to know what would happen to her home if her property was rezoned commercial.

Michele Mussman-737 1<sup>st</sup> Ave West-Kalispell-against the plan as presented. She felt a corridor study was needed.

**APPLICANT  
REBUTTAL  
10:05 pm**

Mayre Flowers called point of order.

Mussman stated that the County had appointed DeGrandpre as their technical representative and just as in a subdivision application both the applicant and the technical representative could both speak.

Dave DeGrandpre stated that he agreed with Flowers in that there were many different sides to the issue. He felt the plan as written could be improved upon, but he felt the property owners deserved some relief.

Sirucek asked what the criterion was in coming up with the quarter mile width.

DeGrandpre explained where this came from.

**STAFF  
REBUTTAL  
10:05 pm**

None

**MAIN MOTION  
TO TABLE TO A  
WORKSHOP  
(FZTA-16-03)  
(FZC-16-15)  
10:25 pm**

Schlegel made a motion seconded by Nogal to table to a workshop on March 8, 2017.

**BOARD  
DISCUSSION  
10:25 pm**

None

**ASK THE  
QUESTION  
10:25 pm**

The question was asked.

**ROLL CALL TO  
TABLE TO  
WORKSHOP  
(FZTA-16-03)  
(FZC-16-15)  
10:25 pm**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS  
10:26 pm**

None

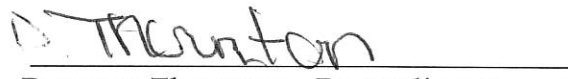
**NEW BUSINESS  
10:26 pm**

None

**ADJOURNMENT  
10:26 pm**

The meeting was adjourned at approximately 10:26 pm on a motion by Schlegel. The next meeting will be held on February 8, 2017 at 6:00 pm.

  
\_\_\_\_\_  
Jeff Larson, Chairman

  
\_\_\_\_\_  
Danene Thornton, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 2 / 8 / 17





**To:** Flathead County Planning Board

**Re: FZTA-16-03** SWO Highway 93 South Whitefish Overlay: A publicly initiated **text amendment** to the *Flathead County Zoning Regulations* **proposed by the Flathead County Planning Board**. The proposed text amendment will create a new overlay use district entitled *SWO Highway 93 South Whitefish Overlay*. And add the new overlay use district to the *Flathead County Zoning Regulations* as section 3.51.

**Date:** January 11, 2017

Citizens for a Better Flathead appreciates this opportunity to comment on the proposed Highway 93 South Whitefish Corridor Plan and Zoning proposal before you tonight. Our organization was founded in 1992 and we represent some 1500+ supporters throughout the county. Our mission is to foster informed and active citizen participation in the decisions shaping the Flathead's future, and to champion the democratic principles, sustainable solutions, and shared vision necessary to keep the Flathead *Special Forever*. **We believe that thoughtfully planned growth can and should occur without diminishing the very special characteristics of the Flathead Valley, and in this case specifically Whitefish, that play such an important role in attracting and retaining investments that grow the Flathead's economy.**

We are providing additional comments tonight to the comments we made to the Whitefish City Council on December 5<sup>th</sup> that are already part of your packet. We ask that our comments for this hearing and for the map amendment hearing, which follows this, be jointly considered for each of these hearing records, as we believe these applications should not be considered in isolation of each other.

In regards to this proposed text amendment we would ask that you consider the following issues:

1. ~~As stated previously, we believe these applications should not be considered in isolation of each other.~~ We suggest that the standards proposed in this text amendment can only be properly evaluated when it is first established and agreed upon by both the City of Whitefish and the County what land uses changes, if any, are suitable for this proposed 490 acre area.
2. We support the issues raised by the City of Whitefish in their letter dated December 21<sup>st</sup> regarding numerous concerns with the proposed map amendments for 490 acres at the gateway to the City of Whitefish. We will raise additional concerns in our comments in the next hearing on the proposed map amendment.
3. We do not support the premise set forth in the purpose for the text amendment on page 4 of the staff report, which asserts that the purpose of this text amendment is to allow for more diverse development **as the area is no longer suitable for just residential or agricultural uses.**

RECEIVED

JAN 11 2017

AT PUBLIC HEARING



This zone text change is contrary to the city's position, which we support, that this area is not appropriate for the scale of proposed development in the map amendment or as cited as the basis for this text amendment.

4. We do, however, support the development of a publicly vetted and city and county supported corridor plan that is developed with standards for development that might include some elements of the proposed development standards of the proposed overlay zone. But any overlay zone and standards must be developed, we believe, in concert with any future map amendment. We do not support either plan being adopted independently of the other at this time.

5. Finally, we object to the repeated assertion in both the staff report for this text amendment and in the staff report for map amendment, which holds as cited for example on page 29 of that staff report, that the proposed design standards would "mitigate development impacts" and thus provide justification for what is stated as the primary reason for these map amendments, "to provide for more development options for property owners in this area" (page 6 of the map amendment staff report).

Design standards are always important along our highway corridors in both the three cities and in the county, **but they cannot and should not be used in the two proposals before you tonight to somehow attempt to justify zoning changes on 490 acres** to allow additional commercial, office, light industrial, and lodging along Hwy 93 South. The findings before you this evening in the county staff reports **do not factually demonstrate** such zone changes are needed or that these proposed zoning map amendments would not be detrimental to the demonstrated economic vitality and capacity of the City of Whitefish. City plans and policies, which have been put in place and have demonstrated the positive economic impacts of sound planning, call for infill and strongly discourage additional patterns of commercial, office, light industrial, and lodging **sprawl** along the Highway 93 southern entrance to Whitefish.

The recent Montana Supreme Court ruling, Case Number DA 15-0582, overturned the application of a proposed Flathead County B2-Highway Green Belt Zoning as applied near the city limits of Kalispell. The county, in approving and applying that B2-Highway Green Belt Zoning, also argued that the development standards within this zone provided justification for the proposed commercial zoning applications along the highway. However, as explained by the Supreme Court "in view of clear conflict between the proposed Map Amendment and the stated growth purposes expressed in Kalispell's growth plan for property that was immediately adjacent to the city, it was incumbent on the County to more broadly consider this issue and assess the impact of the proposed Map Amendment on Kalispell's growth plans."

Because of the vast and undesired impacts we believe this overall zoning change as proposed would have on the City of Whitefish and its residents and on county residents as well, we ask that more time be given for public vetting and stakeholder participation. We also encourage discussion on the initiation of a joint corridor plan by the City and County that would include reviewing the creation of any potential overlay district as part of a comprehensive corridor plan. As this application, though originally requested by a group of land owners in this area, is now being brought forth by the county planning board and not these landowners who have paid no county fees for this application, it is clearly within your jurisdiction as the county and the applicant for this text and map amendment to step back and table consideration of additional development in this area, and instead work with the City of Whitefish as they have requested to begin discussion on the initiation of a joint corridor plan by the City and County for this area.



RECEIVED

JAN 11 2017

To: Flathead County Planning Board

AT PUBLIC HEARING

**Re:** FZC-16-15 SWO Highway 93 South Whitefish Overlay: A publicly initiated zone change request by the Flathead County Planning Board in the Rural Whitefish and Blanchard Lake zoning districts. The proposal would change approximately 51.8 acres from SAG-5 (Suburban Agricultural) to B-2A (Secondary Business), approximately 4.4 acres from R-2.5 (Rural Residential) to B-2A (Secondary Business), approximately 218.5 acres from SAG-5 (Suburban Agricultural) to BSD (Business Service District), and approximately 148 acres from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural). In addition, this entire rezoned area would also be placed in the SWO (Highway 93 South Whitefish Overlay district.

**Date:** January 11, 2017

Citizens for a Better Flathead appreciates this opportunity to comment on the proposed Highway 93 South Whitefish Corridor Plan and Zoning proposal before you tonight. Our organization was founded in 1992 and we represent some 1500+ supporters throughout the county. Our mission is to foster informed and active citizen participation in the decisions shaping the Flathead's future, and to champion the democratic principles, sustainable solutions, and shared vision necessary to keep the Flathead *Special Forever*. **We believe that thoughtfully planned growth can and should occur without diminishing the very special characteristics of the Flathead Valley, and in this case specifically Whitefish, that play such an important role in attracting and retaining investments that grow the Flathead's economy.**

We are providing additional comments tonight to the comments we made to the Whitefish City Council on December 5<sup>th</sup> that are already part of your packet. We ask that our comments for this hearing and for the previous text amendment hearing be jointly considered for each of these hearing records as we believe these applications should not be considered in isolation of each other.

In regards to this proposed map amendment we would ask that you consider the following issues:

1. We agree with and support the concerns and issues raised by the City of Whitefish in their letter dated Dec. 21, 2016, which states that, "Whitefish has many acres of undeveloped and underdeveloped WB-2 zoning (similar to B-2A) which can be further developed as infill. Adding additional B-2A where there is little established need would be contrary to that policy. A commercial land capacity study should be done before changing large swaths of land to commercial zoning."
2. We agree with the staff report for this map amendment when it states that, "Once a zone is applied in a certain area, landowners have certain land uses and densities that are allowed "by-right" or subject to some additional review. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses and densities. Build-out analyses are

objective and are not “best-case” or “worst case” scenarios. **Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, future demands for public services and facilities, the environment and any of the evaluation criteria, such as impact to transportation systems.** (Emphasis added) Build-out analyses are simply establishing the meaning of the zone change to the future of the community to allow for the best possible review today.”

3. We do not support nor do we believe that the record before you supports the staff report conclusion that states, **“A build out analysis for the proposed amendments to B-2A and BSD appear to be problematic for several reasons. One reason is the extent of the request. It would appear to be wild speculation as to what kinds of uses and how many additional lots could be created in this area at full build-out.** Considering that at this time, the area is not served by any kind of water or waste water system, the amount of new, non-residential uses would appear to be quite limited. On the other hand, if these map amendments were approved, it would be reasonable to assume new commercial development would occur in the area. **However, because the additional design requirements of the proposed overlay zone and the traffic improvements required, the potential impacts in the area would be mitigated.”** Instead, a commercial land capacity study should be done before considering changing large swaths of land to commercial zoning in the gateway entrance corridor to the City of Whitefish.

**4. This proposed Corridor Plan and revised zoning overlay includes approximately 490 acres south of Whitefish along both sides of Hwy 93, for a total width of about half a mile wide, and south of Hwy 40 for approximately 1.5 miles.**

**490 acres is HUGE!**

**The entire Whitefish Downtown Master Plan area is only about 38 acres.** Under the new Whitefish Downtown Master Plan, within this 38 acres there is the capacity to add 200,000 sq. ft. of new retail and commercial, and 90,000 sq. ft. of lodging, or at least a decade of growth. Add to this the commercial, office, light industrial, and lodging capacity recently added under the Hwy. 93 Whitefish West Side Corridor Plan, the existing capacity along Hwy 93 South within the city limits, and the potential additional capacity within the Whitefish Wisconsin Ave Corridor Plan, which is just now being developed, and Whitefish has the capacity within its city limits for well over a decade and probably two decades of retail, commercial, office, and lodging growth within the city limits. There is no need for Highway SPRAWL! Infrastructure is for the most part in place or planned for to support this infill growth and use taxpayer money wisely.

This zoning map amendment, which is being brought forward by the county planning board as the applicant (as opposed to the residents of this area) for South Hwy 93 South, seeks to change the zoning on the majority of this 490 acres of land, which is currently zoned agricultural, largely SAG-5, or AG-20, to more intensive county commercial or B-2A zoning or the BSD business service district zoning, districts which allow for a multitude of commercial and business uses that would be more appropriate as infill within the city limits at this time.

The City of Whitefish is already on record with Flathead County in its letter dated Dec. 10, 2015 to the Flathead County Commissioners as opposing the County’s B-2A zoning for a number of reasons including:

*"In the permitted uses of the proposed B-2A zone, the Whitefish WB-2 lists 'antique stores and auction barns' but the B-2A lists 'antique, gift, and card retail sales'. We ask that you make the language in the B-2A the same as the WB-2 for that use. Whitefish has unique zoning in that the code calls for the majority of small retail uses to remain downtown, while in the secondary business district (the Highway 93 South strip) the primary retail is for larger items or businesses that need large amounts of parking. **Gift and card sales is fairly open ended (what is a gift, exactly? it could be anything), and goes contrary to Whitefish's zoning that prohibits sale of small retail items outside of the downtown.**"*

*"On the list of permitted uses in the B-2A is 'convenience stores', which the draft shows **as a stand-alone use**. In the WB-2, 'convenience stores' are only allowed as an accessory use to 'automotive service stations'. The city feels it is important that the B-2A be consistent with the WB-2 on that item."*

Another important difference in the proposed application of the County BSD Secondary Business Zone to the Highway 93 South Corridor is that this overlay zone **as proposed is being applied as a mile long half a mile wide "strip," rather than as an "island" as called for in the city definition of this zone. This strip type of development was never the intent of the Whitefish BSD zone.** Additionally, application of this city zone, if this area was still within the city planning authority or was being considered for annexation, would require an amendment to the Whitefish Growth Policy and identification of significant changes to the pattern of growth in the city and significant benefits to the public and city that would result from such a change as a basis for this change. No such changes or benefits are clear to justify this change in zoning in this corridor and thus it is not consistent with the future growth plans of the City of Whitefish.

The City's definition of its Business Service District is:

*The WBSD is intended to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses. **This district is restricted to those areas identified as business service center in the growth policy.** Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to **develop as an island rather than as a strip.** Structures would be of moderate to high architectural quality and clearly not "industrial" in appearance. Landscaping will be extensive with good quality and effective screening and buffering. (City of Whitefish Ord. 08-08, 5-19-2008)*

As the December 21<sup>st</sup> letter from the City of Whitefish establishes the city has **already put in place land use, infrastructure, and transportation plans to handle the future growth needs for this type of proposed development within the city and that this proposed new zoning is not consistent with the City of Whitefish's planning documents and will likely harm the robust economic development the city has achieved with these plans as well as the investments of many within the city.**

**Owning property along Highway Corridors in the Flathead is not justification for property owners outside of the city limits to band together and demand non-agricultural zoning for their property so they can turn their property into what they see as a more lucrative personal benefit for themselves. Planning is and should be about benefiting the whole community not small groups of individuals seeking personal benefit.** That is what the District Court said to a group of property owners outside of Kalispell in 2013 who asked for similar Highway zoning – the court found in ruling against the county zone change that County,

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*"Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities."* MCA 76-2-203. As you are aware, this District Court ruling was recently upheld by the Montana Supreme Court.

5. It should be noted that the county receives tax revenue from commercial or residential development whether or not it is located in the city or county. Numerous professional planning studies document the more cost effective strategy of supporting infill development within city centers given the associated infrastructure costs and service cost for commercial development. This should be a factor considered under the state criteria that asks for findings that demonstrate **whether the proposed map amendment is designed to promote public health, public safety, and general welfare.**

6. In addition to the need for a commercial land capacity study in the area of the proposed map amendment before considering changing large swaths of land to commercial zoning in the gateway entrance corridor to the City of Whitefish, additional analysis is needed of zone and subdivision changes that have already been approved by the county along highway corridors in the Flathead to provide a basis for further consideration of this proposed map amendment. This proposed map amendment should not be considered absent a thorough review of the overall capacity the county has already approved for development, as well as capacity of the three cities and towns governed by neighborhood plans for future growth.

7. Conclusions in the staff report that this area covered by the map amendment is no longer suitable for residential or agricultural uses is contradicted by residential developments such as Silverbrook Estates north of Kalispell which used landscaped berms to effectively buffer highway noise, or by recent residential developments approved within the City of Whitefish along its south Highway 93 corridor within the city limits. This assertion and its validity deserve additional consideration.

8. Again, we object to the repeated assertion in both the staff report for this map amendment and in the staff report for text amendment, which holds as cited for example on page 29 of that staff report, that the proposed design standards would "mitigate development impacts" and thus provide justification for what is stated as the primary reason for these map amendments, "to provide for more development options for property owners in this area" (page 6 of the map amendment staff report). See our additional comments for the hearing on the text amendment.

9. We support the staff report recommendation that states, "Staff would recommend more discussion regarding strip development issues, traffic safety issues, compatibility with the City of Whitefish Future Land Use Map, the lack of water and sewer services, and the limited public input."

10. Finally, we would like to know what is meant by the statement repeated numerous times in these staff reports that states, "In **many cases**, new non-residential development in this area will be required to increase building setbacks in order to comply with the standards of the SWO." See page 14 for one such reference. When would the overlay development standards not apply? We also assume that the references to B-2A zoning on pages 15 and 17 are cut and paste typos and that the reference to a 2017 version of the Flathead Growth policy on page 18 is also a typo.

In conclusion we want<sup>to</sup> state that we:

- **Oppose zoning changes for additional commercial, office, light industrial, and lodging along Hwy 93 South** as unneeded and detrimental to the demonstrated economic vitality and capacity of the current city plans and policies that call for infill and strongly discourage additional patterns of commercial, office, light industrial, and lodging **sprawl** along the Highway 93 southern entrance to Whitefish.
- **Encourage the County to work with the City of Whitefish for a joint corridor plan, in support of state laws that require the county to work with the city to adopt zoning regulations that are compatible** with the planning and zoning regulations that the city has adopted, and not the desires of individual property owners who chose to buy property that was not zoned and is not suitable for commercial uses until such time as the city completes its infill goals.
- **Find that the added traffic and infrastructure impacts and costs for new development outside the city limits at this time and in this area are not supported by city facility plans and are not a cost effective** use of city, county, or state tax dollars when the city has much more cost effective options for infill development.
- **Reserve the opportunity to provide the county more detailed comments** once the county planning office staff complete any additional review of this application, proposed findings of facts, or provide any additional facts to justify their recommendation as a result of possible future workshops on this application. We ask that this hearing record remain open for this purpose and in fairness to the public at large given the fact as we stated earlier in complaints to the county planning office that links to staff reports and developer applications for this and other decisions have not be available to the public due to acknowledged computer issues the county has encountered until late yesterday.

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